

Department of Energy

§ 207.8

(3) The DOE may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (d)(1) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under paragraph (b) of this section.

(4) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (d)(1) of this section are satisfied, the DOE may issue a remedial order for immediate compliance, even if the 10-day period for reply specified in § 207.6(b)(2) of this part has not expired.

(5) At any time after a remedial order for immediate compliance has become effective the DOE may refer such order to the Department of Justice for appropriate action in accordance with § 207.7 of this part.

(e) *Remedies.* A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to take such action as the DOE determines is necessary to eliminate or to compensate for the effects of a violation.

(f) *Appeal.* (1) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal.

(2) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the DOE Office of Exceptions and Appeals in accordance with the procedures for such appeal provided in subpart H of part 205 of this chapter. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

§ 207.7 Sanctions.

(a) *General.* (1) Penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this subpart or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this subpart relating to criminal fines and civil penalties.

(b) *Criminal penalties.* Any person who willfully violates any provision of this subpart or any order issued pursuant thereto shall be subject to a fine of not more than \$5,000 for each violation. Criminal violations are prosecuted by the Department of Justice upon referral by the DOE.

(c) *Civil Penalties.* (1) Any person who violates any provision of this subpart or any order issued pursuant thereto shall be subject to a civil penalty of not more than \$2,750 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by the DOE.

(2) When the DOE considers it to be appropriate or advisable, the DOE may compromise and settle, and collect civil penalties.

[40 FR 18409, Apr. 28, 1975, as amended at 62 FR 46183, Sept. 2, 1997]

§ 207.8 Judicial actions.

(a) *Enforcement of subpoenas; contempt.* Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General at the request of the Administrator, in the case of refusal to obey a subpoena or order of the Administrator issued under this subpart, issue an order requiring compliance. Any failure to obey such an order of the court may be punished by the court as contempt.

(b) *Injunctions.* Whenever it appears to the Administrator that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this subpart, the Administrator may request the Attorney General to bring a civil action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order or regulation, the violation of which is prohibited by section 12(a) of ESECA, as implemented by this subpart.